

VIII. CONCLUSION


27. OC drapes with beneficial aura of competition a call forwarding service that jeopardizes legitimate and established security concerns associated with providing inmates with telephone services. OC asserts that those concerns can be protected by imposing new and additional responsibilities on the ICS providers, without exposing OC to any of the contractual obligations or potential liabilities. In other words, OC wants to reap the benefits of the investments made by ICS providers like Evercom/PCS, without assuming the burdens. The Courts and the Commission have recognized the unique circumstances surrounding the provision of ICS. The Commission has, through its disclosure requirements³⁴, taken steps to allow consumers to make informed judgments. It has properly recognized that the FCC is not in the business of being a prison administrator and struck a regulatory balance that accommodates the realities of prison conditions and concerns. In its self-serving Petition OC has given the Commission no substantive reasons to impose on ICS providers and facility administrators the demonstrated risks of going further by accommodating the demands of OC and its competitors.³⁵

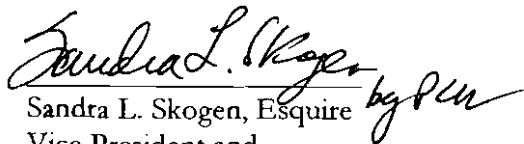
³⁴ See 47 C.F.R. Section 64.710.

³⁵ It should not be lost on the Commission that any decision that it might make on interstate ICS calls would not, unless the Commission decided to preempt all state regulation, cover any state regulatory prohibitions of call forwarding to the extent they affected intrastate calls. Such a bifurcated system would no doubt create more problems for prison administrators.

Respectfully submitted,

EVERCOM, INC.
and
**PUBLIC COMMUNICATIONS
SERVICES, INC.**

By: 
Paul C. Besozzi, Esquire
PATTON BOGGS LLP
2550 M Street, N.W.
Washington, D.C. 20037
(202) 457-5292

By: 
Sandra L. Skogen, Esquire
Vice President and
General Counsel
EVERCOM, INC.
8201 Tristar Drive
Irving, TX 75063
(972) 953-4140

By: _____
Paul Jennings
President
PUBLIC COMMUNICATIONS
SERVICES, INC.
11859 Wilshire Boulevard, Suite 600
Los Angeles, California 90025
(310)-231-1000

April 28, 2003

Prison Talk Online

Breaking the prison system communication barrier

[Prison Talk Forums] [Prison Talk Online Calendar]

When you want to save on inmate collect calls, contact the leader since 1996...

TELE-NET INC
IMAGINATION IN COMMUNICATION



Prison Talk Online > GENERAL SUPPORT FORUMS > Institutional Phone Systems > TeleNet update

◀ Last Thread Next Thread ▶

Author

Thread

POST A TOPIC

POST REPLY

irisheyes66

Hostess with the Mostest!

TeleNet update

Well, my service with TeleNet has finally kicked in....and I can't tell you how great it felt to hear Shawn's voice on the other end of my phone!!!! My heart was just soaring when he said "I love you" that first time!

When I got home from work on Monday, the pre-recorded "This is a call from a correctional facility" was on my answering machine...so I knew everything had been approved, and the service was working. He had called 6 or 7 times during the day, LOL....I guess he was just as anxious to hear my voice as well 😊

When we finally "connected" later on in the evening, it was pure heaven....I have missed talking with him soooo much. It's only been a couple of months since we've spoken, but it took hearing his voice again to make me appreciate how important our calls really are, to both of us. Letters are great, but nothing takes the place of being able to hear your honey's voice expressing love, discussing plans for the future, or even just saying your name softly. He said "I love you" so many times...I started laughing at one point and couldn't stop! He always ends each call by trying to say it as many times as he can before the recording comes on, and the call ends....very sweet.

I called Southwestern Bell after the call, to verify the rates....And including the connection fee, an hour's conversation was just what I figured; \$12.27 plus tax. We spoke for three hours this week, for less than HALF of what a single hour with AT&T would have been!!!! Unbelievable!

An amusing anecdote, LOL

When I finalized my paperwork with TeleNet, I mentioned that I would also need an address that 'matches' my new number, as the Kansas DOC insists on it. I was a bit worried that the prison might

Registered: Aug 2002
Location: Providence, RI; my man is in El Dorado, KS....
Posts: 506

do a check on the information, but John at TeleNet assured me that none of their other Kansas customers have ever had a problem with this. So, he "dug up" an address for me, and told me to submit it right along with the number. LOLOL...it turns out that "1111 West Central Avenue" is actually a large hotel in the El Dorado area 🌐

When Shawn got my letter with the new number and address, he was so excited...because he thought I had finally sold my house and moved to Kansas, and hadn't told him so it could be a surprise!!!! LOLLOL...He immediately wrote a letter and sent it off to that address! I wonder if the hotel staff read the letter, and are now beyond confused!!!! LOL!

On the phone, he told me what he had done (he was pretty embarrassed---wonder what was in THAT letter, anyway?), and we had a great laugh over it....And I told him when I do sell my house (hopefully soon, I have a few offers I am considering), he'll be the first to know. My original relocation destination was Arizona, but I have been finding more and more nice homes in Kansas within my budget. And...being that close to my man is definitely an added incentive 🌐

I hope everyone's TeleNet service is up and running soon....may you all be whispering "I love you" in time for the holidays!

Susan in Providence, whose heart is pounding all over again every time the phone rings!!!

"A court is in session; a verdict is in
No appeal on the docket today, just my own sin
The walls cold and pale
The cage made of steel
Screams fill the room
Alone, I drop and kneel

Silence now the sound, my breath the only motion around
Demons cluttering around...my face showing no emotion
Shackled by my sentence
Expecting no return
Here there is no penance
My skin begins to burn

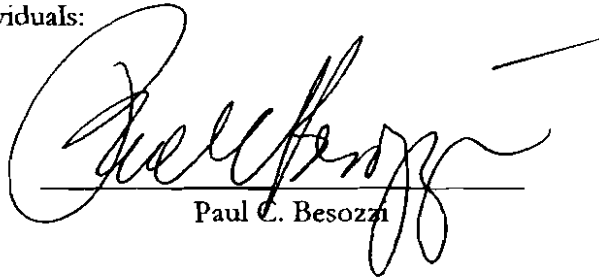
So I held my head up high
Hiding hate that burns inside
Which only fuels their selfish pride
We're all held captive out from the sun
A sun that shines on only some
We the meek are all in one..."

Lyrics by Creed

[Report this post to a moderator](#) | IP: [Logged](#)

CERTIFICATE OF SERVICE

I, Paul Besozzi, an attorney in the law firm of Patton Boggs LLP, do hereby certify that on this 28th day of April 2003, I did serve, by first class U.S. mail, postage prepaid, a copy of the forgoing "Joint Reply Comments of Evercom, Inc. and Public Communications Services, Inc." on the following individuals:



Paul C. Besozzi

SERVICE LIST

Rodney L. Joyce
Shook, Hardy, & Bacon, LLP
600 14th Street, N.W.
Washington, D.C. 20005-2004

Craig Ferguson, President
Global Tel* Link Corporation
2609 Cameron Street
Mobile, Alabama 36607

Jeffrey J. Bender
2500 Virginia Avenue, N.W.
Suite 305S
Washington, D.C. 20037

Glenn B. Manishin
Stephanie A. Joyce
Kelley Drye & Warren LLP
1200 19th Street, N.W.
Suite 500
Washington, D.C. 20036

John S. Shaffer, Ph.D.
Executive Deputy Secretary
Pennsylvania Department of Corrections
2520 Lisburn Road
P.O. Box 598
Camp Hill, PA 17001-0598

Michael S. Hamden
Executive Director
North Carolina Prisoner
Legal Services, Inc.
224 South Dawson Street
P.O. Box 25397
Raleigh, North Carolina 27611

Larry Fenster
Kecia Lewis
Lisa Youngers
WorldCom, Inc.
1133 19th Street, N.W.
Washington, D.C. 20036

Stephen A. Young
Legal Counsel
Ohio Department of
Rehabilitation and Correction
1050 Freeway Drive North, Suite 207
Columbus, Ohio 43229

John B. Messenger
Vice President & Associate General Counsel
PaeTec Communications, Inc.
One PaeTec Plaza
600 Willowbrook Office Park
Fairport, New York 14450

Kermit D. Heaton
Value-Added Communications, Inc.
1601 N. Collins Boulevard
Richardson, Texas 75080

James D. Shutt
Director
Bureau of Standards, Practices, Security
Accreditation and Internal Audits
Pennsylvania Department of Corrections
2520 Lisburn Road
P.O. Box 598
Camp Hill, PA 17001-0598

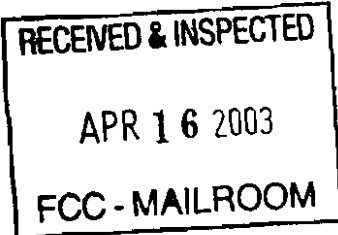
Allen Ostenso
1462 Cherrydale Drive
San José, California 95125



EXHIBIT 10

DOCKET FILE COPY DUPLICATE

Before the
Federal Communications Commission
Washington, DC 20554



In re:

Petition for Declaratory Ruling Filed by Outside Connection, Inc.
Pleading Cycle Established
WCB/Pricing 03-14

To: The Commission

COMMENTS

by

Ohio Department of Rehabilitation and Correction

Stephen A. Young
Legal Counsel
Ohio Department of Rehabilitation and Correction
1050 Freeway Drive North, Suite 207
Columbus, OH 43229

April 14, 2003

Ohio Department of Rehabilitation and Correction (hereafter referred to as ODRC) by its attorney, Stephen Young, submits these written comments in opposition to Outside Connection's petition for declaratory ruling. ODRC supports New York Department of Correctional Services' efforts to block the long distance service provided by Outside Connection.

ODRC'S TELEPHONE SYSTEM, GENERALLY

ODRC operates thirty-two (32) correctional institutions and additionally has two privately-operated institutions, through out the State of Ohio, housing approximately 45,048 inmates.

In order to assist inmates' communication and contacts with their families, friends or attorneys, ODRC operates the Inmate Call-Out Program (hereafter referred to as ICOP), pursuant to attached ODRC policies 001-03; 004-01; 312-01; and one other confidential policy. Inmates are informed of these policies by an Inmate Handbook and during orientation.

It is the policy of the ODRC to ensure that institutions have the ICOP in place for all general population inmates in order to provide them with reasonable and equitable access to telephones for the purpose of maintaining ties with their family and home community. The ICOP is operated in the following manner:

1. enhance an institution's security;
2. enhance the safety of staff, inmates and public; and
3. reduce the occurrence of criminal activities or any other activities that could be considered a threat to the orderly operation of the ODRC.

The exclusive agreement to provide the telephone service for the ICOP is presently held by MCI WorldCom Communications, Inc. (hereafter referred to as Agreement). The policies, together with the Agreement, establish the parameters for the ICOP. Generally, during the hours of operation of the ICOP at a given facility, each inmate may place collect-only calls to anyone who will accept them unless the number is blocked or restricted. All such calls are subject to monitoring. Inmates consent to such monitoring as a condition of being allowed to use the telephones. Monitoring ensures that the telephone privilege is not being abused in a manner that is a violation of law or detrimental to the security to the institution, employees or other inmates.

ODRC carries out such monitoring through equipment provided by the Agreement. It should be noted that the ICOP, as it is currently structured, has been an enormous source of intelligence information for ODRC regarding inmates who continue to engage in illegal activities (e.g., violations of institutional rules of conduct and crimes). ODRC continues to use the resources available to it through the ICOP, often in conjunction with other law enforcement agencies, to discipline or prosecute inmates involved in criminal activities both within correctional institutions and in the community.

The parameters for the ICOP were developed over a number of years and represent an appropriate balancing between the legitimate security, control and monitoring needs of

ODRC and the goals of fostering inmate contacts with family and friends to aide in their rehabilitation.

PROHIBITION OF FORWARDED CALLS

Outside Connection, Inc., petitioner for declaratory ruling before the FCC, is a call forwarding service. ODRC has had several experiences with that type of service. The system used by Outside Connections to provide local telephone numbers for individuals at distant locations prevents serious security problems and violates the rules and policies pertaining to the ICOP and standards of inmate behavior. That system allows an inmates' relative to purchase a telephone number near the prison that the inmate can call at a local rate, typically less expensive than long distance. The call is then forwarded to the relative's home, at a privately purchased rate, ~~less than the prison's~~ telephone service provider would charge.

If state departments of correction would be required to accommodate outside connection's attempt to be part of the inmate phone program, these departments will loose a significant degree of control over a critical program and its ability to receive needed intelligence will be compromised. If correctional systems were required by the FCC to deal with companies like Outside Connections, it would be surrendering its duty to protect and control the inmates in its custody. ODRC supports New York's Department of Correctional Services' ability to block out such activity.

ODRC's policies 312-01 and 004-01 prohibit the forwarding of telephone calls and third-party phone calls. Thus, inmates are subject to disciplinary proceedings for being involved in redirecting telephone calls.

ODRC prohibits call forwarding because it needs to restrict the destination of the telephone call. When call forwarding is used, ODRC loses that ability to restrict. Loss of such control can facilitate an inmate's ability to direct criminal activity from prison. This prohibition is based on several safety and security issues that include calls that would threaten and harass victims, witnesses, jurors, judges and other criminal justice agency employees, as well as calls to arrange smuggling of drugs or other contraband and escape plans. Preventing call forwarding also prevents calls from correctional institutions to individuals that have had their telephone service blocked by choice.

By using the call forward function of the telephone service, there is no guarantee that the call will not be directed to a telephone other than the one that was dialed or for which the call was recorded. State of the art telephone equipment can only record and store telephone numbers that are dialed from the telephone initiating the call, not where the call terminates if forwarded. If using the automatically forwarded service, an individual may change the destination of the forwarded call at any time of the day by using several service features, including calling a customer service center or logging into a customer service internet site. This could be done without any notification to corrections authorities and as many times as the person who owns the automatically call forwarded number wants to make the change. If an inmate or customer of Outside Connections really wanted to confound and avoid the security system in place, they

could "daisy-chain" several automatically forwarded telephone numbers. An inmate could call telephone number one that is forwarded to telephone number two, which is forwarded to telephone number three, and so on. In the above described situation, the end telephone number and the receiver of the call could only be revealed after the call had taken place and only with the cooperation of the telephone companies involved which would be too late, if the inmate-caller had intended to cause physical harm or mental anguish to a person outside the correctional facility.

ODRC'S CONTRACT WITH WORLDCOM

The ICOP was the result of a careful balancing of the desire to provide inmates with telephone access to friends and family against the need to keep inmates in a safe and secure environment and the need to protect the public from inmate criminal activity. To carry out the ICOP, ODRC entered into an Agreement with MCI WorldCom Communications, Inc., as the sole provider of telephone services from ODRC institutions. WorldCom received a contract after submitting a successful proposal in response to a competitive bidding process. The current Agreement runs through February 25, 2004, but ODRC has the option to extend it for an additional one year period. On behalf of ODRC, I drafted these legal documents, negotiated the Agreement, and continue to handle legal issues relating to the Agreement.

Under the Agreement, inmates are unable to place their calls through any collect call service provider other than WorldCom. The exclusive Agreement with a single provider to operate the ICOP assures that ODRC has consistent quality both in service provided and in security measures. WorldCom provides comprehensive managed telephone service for the ICOP. WorldCom processes calls placed by inmates through the ICOP and has installed approximately six million dollars worth of equipment to do the program.

The Agreement establishes the rates charged by the recipient of calls placed by inmates and WorldCom submits the rates to the Public Service Commission, which then becomes the filed tariff. WorldCom pays ODRC a commission on every call, whether it collects a tariff or not. Pursuant to section 5120.132 of the Ohio Revised Code, those commissions are deposited in the prisoner program funds in the state treasury. The money in that fund shall only be used for programming operated by the ODRC for the benefit of its inmates.

Given the special equipment involved in monitoring phone calls and blocking calls, a single provider, collect-call only system is best suited to meet ODRC's security needs. Thus, under the Agreement, all ICOP calls must be delivered to the called party as a zero +, collect call only. The single provider allows ODRC to incorporate complex security features (e.g., how inmate dials, the number of telephones per inmate, the location of the telephones, the type of telephone, voice prompts, how the systems are integrated with ODRC's systems and procedures, call monitoring, access to billing name and address data (BNA), call blocking, the hours of operation, the prohibition of third party calling and call forwarding) into the ICOP. Under the Agreement, WorldCom is obligated to maintain the ICOP as secure as possible. To guarantee this obligation, WorldCom posted a five million dollar performance bond. The collect-call only system

provides both maximum access to telephone service for the inmate population, and the security controls necessary to ODRC.

WorldCom is further obligated to furnish ODRC with data in real time of the destination of the telephone calls. WorldCom is responsible to block calls pursuant to requests from ODRC, for example, if ODRC determines that calls involve call forwarding or third party calls such as those placed to Outside Connections lines. WorldCom's failure to honor an ODRC request to block a call may result in a material breach of the Agreement.

LEGAL ARGUMENT

ODRC has a contractual relationship which was designed specifically to address ODRC's security concerns. ~~A single provider system is an important feature~~ in monitoring and controlling inmate activity. FCC rules that ensure consumers are able to reach their preferred long distance carriers from public telephones served by operator service providers do not apply to "inmate only" telephones. This exemption for correctional facilities from the FCC rules is due to the exceptional set of circumstances under which "inmate only" telephone service is provided, including the above-referenced complex security features. These features certainly influence rates for collect calls from prisons.

ODRC only allows inmates to make collect calls from "inmate only" telephones, and they do not have a right to access their preferred carrier. When an ODRC inmate makes a collect call, WorldCom must identify itself to the person receiving the inmate's call before connecting any interstate, domestic interexchange telephone call. WorldCom must disclose immediately thereafter how the receiving party may obtain rate quotations before connecting. Additionally, WorldCom permits that party to terminate the telephone call at no charge before the call is connected. This protocol is required by 47CFR64.710.

FCC recognizes that contracts between operator service providers of inmate operator services and state departments of corrections can be with a single exclusive company and can limit telephone numbers that may be dialed by inmates for safety and security reasons. In Matter of Amendment of Policies and Rules Concerning Operator Service Providers and Call Aggregators, 11 FCC Record 4532, 4532 (1996), the FCC concluded that correctional agencies were not subject to rules governing call blocking and other regulations which apply to those who make telephones available to the public. As a result, callers from prisons "are generally unable to select the carrier of their choice: ordinarily they are limited to the carrier selected by the prison." *Id.*, 11 FCC Record at 7301. Moreover, prison systems are also permitted to block calls which raise security concerns.

For example, prisons may need to block inmate calls to judges, jurors, witnesses, or others. In fact, prisons may need to limit inmate calls to a set of pre-approved numbers.

Id., 11 FCC Record at 7301

The FCC reiterated that prison systems are generally exempt from FCC rules which restrict the blocking of telephone calls. Matter of Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, 17 FCC Record 3248, 3282 (Feb. 21, 2002).

We recognize that the provision of inmate calling services implicates important security concerns and, therefore, involves costs unique to the prison environment . . . A prison payphone provider typically is contractually obligated to monitor and control inmate calling to prevent abuse and ongoing criminal activity and to assist in criminal investigations. Correctional facilities must balance the laudable goal of making calling services available to inmates at reasonable rates, so that they may contact their families and attorneys, with necessary security measures and costs related to those measures. For this reason, most prisons and jails contract with a single carrier to provide payphone service and perform associated security functions. Thus, legitimate security considerations preclude reliance on competitive choices, and the resulting market forces, to constrain rates for inmate calling.

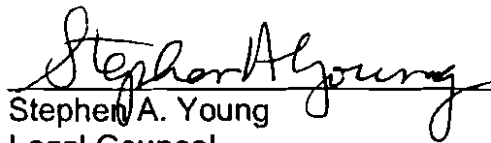
Id., 17 FCC Record at 3276 (emphasis added). Moreover, the FCC expressly recognized the legitimate security interest of prohibiting "a scheme to evade calling restrictions via call-forwarding or three-way calling." Id., 17 FCC Record at 3252.

A private business such as Outside Connection, Inc., should not be able to interfere with the safe and secure operation of state prisons. To permit the action requested by the petitioner, would set a dangerous precedent that would impact state corrections systems that endeavor to effectively manage their operation.

CONCLUSION

For the foregoing reasons, Outside Connection's petition for declaratory ruling must be denied.

Respectfully submitted,


Stephen A. Young
Legal Counsel
1050 Freeway Drive North, Suite 207
Columbus, OH 43229
614-752-1784

STATE OF OHIO



DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT:	PAGE <u>1</u> OF <u>6</u>
TELECOMMUNICATION SERVICES	SECTION: 001 NUMBER: 03
RULE/CODE REFERENCE:	SUPERCEDES: 001-03 DATED 3/30/98
RELATED ACA STANDARDS: NONE	EFFECTIVE DATE: May 9, 2001
RELATED AUDIT STANDARDS:	APPROVED: <i>Reginald A. Wilkinson</i>

I. **AUTHORITY:**

This policy is issued in compliance with Ohio Revised Code 5120.01, which delegates to the Director of the Ohio Department of Rehabilitation and Correction the authority to manage and direct the total operations of all Divisions and Institutions of the Department and to establish such rules and regulations as he prescribes.

II. **PURPOSE:**

The purpose of this policy is to provide direction regarding the use of telecommunication services for business and personal use (to include telephones, cellular telephones and telephone credit cards).

III. **APPLICABILITY**

This policy applies to all persons employed by or under contract with the Ohio Department of Rehabilitation and Correction and all persons doing business with the Department.

IV. **DEFINITIONS:**

Telecommunication Services: Includes telephone utilities, long distance, and private line voice and data, cellular telephones or any other telecommunications service.

Wired Phone- Traditional landline local and LONG distance telephone service.

Cellular Telephone- Cellular/digital telephone service.

Telephone- Unless otherwise stated, telephone includes both wired and cellular telephones.

V. POLICY:

It is the policy of the Ohio Department of Rehabilitation and Correction that telecommunication services and equipment be used in an effective and efficient manner in the course of conducting state business.

VI. PROCEDURES:**1. ISSUING CELLULAR TELEPHONES**

A. Requests for the assignment of state cellular phones shall be submitted through the chain of command to the relevant deputy director. ~~the relevant deputy director~~ shall be responsible for assessing and subsequently approving an employee's need for an individually assigned cellular phone or the sharing of cellular phones. The Director or designee shall have final approval of all assignments of state cellular phones.

B. In general, the following criteria shall be met before assigning an employee an individual cellular phone:

The employee's primary job duties require that he or she be immediately accessible and on-call.

The primary job duties of the employee require him or her to be in the field at least 50% of the time.

The employee does not have other telecommunication services reasonably available during the majority of their working hours. (for example, an employee that spends at least 50% of their time in the field, but they are generally at an institution with readily available telephones would not meet this criteria)

C. Other significant work related considerations may necessitate and justify the assignment of an individual cellular phone. these considerations must be fully documented when approval for an individual cellular phone is being sought.

D. In situations where a group of employees do not meet the above criteria but still have frequent legitimate need for the use of a cellular phone while performing their job duties, the relevant deputy director may consider a system of sharing cellular phones. strict accountability for each cellular phone is mandated in these situations. a log must be maintained to track the responsible person, the dates and times when the cellular telephone was checked out and checked in , and by whom.

E. Any abuse or misuse of a state cellular phone may result in disciplinary action and a suspension of the offending employee's permission to utilize state cellular phones.

F. All requests for cellular phones shall be forwarded by the respective deputy director to the telecommunications manager. final approval must be given by the director or designee.

2. EVALUATING/ACQUIRING CELLULAR SERVICE PLANS

A. For central office personnel the telecommunications manager shall determine the most effective and cost efficient cellular service plan based upon the individual's needs and usage. In institutions, this shall be the responsibility of a designated individual in the institution business office. This assessment will include, how the cellular telephone will be used, the number of minutes required per month, the desired coverage area and when the cellular phone will be used. All plans will be evaluated including those on the DAS cellular telephone rate plans list. If a decision is made to procure a cellular telephone service plan that is not on the DAS cellular telephone rate plans list, justification must be provided for procuring another cellular telephone service plan.

B. At least annually a complete review of individual and group cellular services shall be made by the telecommunications manager and each individual institution. The cellular service plans being used by individuals and groups within the department shall be reevaluated to determine if the cellular telephones are still needed, if the plan is still the most appropriate plan for the business needs considering usage patterns and if the plan is still the most cost effective.

3. LIMITATIONS ON PERSONAL CALLS

A. Calls to 1-900 numbers are strictly prohibited. The Local Exchange Carrier through an ADM-3807 issued by the Telecommunications Coordinator at Central Office shall block all 900 numbers on all lines and trunks.

B. Personal long distance calls, except in the case of an emergency, may not be placed from any state telephones or through the use of a state telephone credit card and charged to the State.

C. For cellular telephones, personal calls made or received on state cellular telephones are only acceptable in emergency situations when no wired telephones are available for use.

D. It may be necessary to make a limited number of personal telephone calls while at work. The frequency and duration of such personal calls must be kept to a minimum. Personal calls should be made, whenever possible, during lunch hours or authorized breaks.

E. Personal Business Calls that involve an activity undertaken for personal profit or gain shall not be conducted from state telephones. Employees are prohibited from circulating their state telephone number as a telephone number at which they can be reached for personal business(personal business cards and

materials shall not have a state telephone number listed as the contact number.)

4. RECORD KEEPING/REIMBURSEMENT

A. Personal long distance calls on wired telephones and all personal cellular calls made and received will be considered the responsibility of the employee to whom the telephone is assigned, unless it can be shown that calls are the result of cloning or other fraudulent use of the account or telephone by someone other than the employee.

B. The Department of Administrative Services, Communications Section, provides all state agencies on the Centrex system with monthly toll call billing statements. The Centrex billing statements record the long distance toll call activity for every extension on the Centrex system. The Centrex billing statements for the DRC Central Office building complex, with the exception of the Division of Parole and Community Services, is forwarded to the Division of Business Administration. The Centrex billing statements for the Division of Parole and Community Services (DP&CS) is forwarded to the DP&CS business office. The Centrex billing statements for the Ohio Penal Industries (OPI) is forwarded to the OPI business office.

C. Prison facilities shall maintain long distance toll call activity on their internal PBX systems.

D. The Division of Business Administration, as well as the business offices of The Division of Parole and Community Services and Ohio Penal Industries will be responsible for reviewing their monthly Centrex billing statements to ensure that long distance calls, other than to institutions or department field offices, are properly charged to each state telephone. Institution business offices, likewise, will be provided monthly toll call activity reports from their PBX systems to be reviewed.

E. The monthly review shall consist of a random selection of at least ten telephone extensions from the monthly billing statements. The review shall be a screening of the long distance telephone call activity. The review shall also include a screening of the separate business telephone lines billed directly to each respective business office (i.e., fax, computer modem, etc).

F. The monthly review shall consist of the following screening criteria:

- 1) Time of telephone call
- 2) Duration of telephone call
- 3) Location of telephone call
- 4) Cost of telephone call
- 5) Repetitiveness of telephone call

G. Billing statement printouts with questionable long distance calling activity shall

be forwarded to the employee assigned to the extension for certification. The employee shall review the activity and sign the printout. The printout shall then be forwarded to the employee's supervisor for review and verification. The employee's supervisor shall then review the printout for unusual calling activity and, if necessary, make the appropriate follow-up with the employee. The supervisor shall then sign and return the printout to the business office. The printouts shall be filed and maintained in the business office until audited by the state and DRC internal audit staff. The review and certification process shall take no longer than 14 calendar days.

H. The detailed bill for each state owned cellular telephone must be reviewed as bills are received using the following procedure:

1. Each person assigned a cellular telephone must review the detailed bill and initial any personal calls made or received.
2. Each person will sign and date the bill, documenting the total charge for all personal calls made or received.
3. Each person with personal calls will reimburse the state following the procedures stated below.
4. A designated business office staff member shall review the bill after all personal calls have been noted to ensure that personal cellular usage followed the guidelines in this policy.

I. The State shall be reimbursed for any personal calls charged to the state. Reimbursement for cellular phone use shall be calculated as required pursuant to DAS POLICY ITP-002. A cashier's check or money order for the amount charged is to be made payable to the Treasurer of the State of Ohio and forwarded to the Business office. Reimbursement shall occur within 14 calendar days following receipt of the monthly agency telephone bill.

5. OTHER PROVISIONS:

A. Inmates shall not be permitted to use any cellular telephone or other communication device attached to the administrative PBX system at the institution that is not blocked from incoming and outgoing outside calls. The Warden or his/her designee must approve all exceptions in writing. An original of the approval must be posted in plain view near the telephone that the inmate is using. Institutions equipped with call accounting systems should closely monitor all telephone logs that are generated as a result of inmates using administrative telephones.

B. Incoming collect telephone calls to an institution or Adult Parole Authority (APA) office are not permitted except as stated in section VI,5(C).

C. Adult Parole Authority (APA) field staff, who are not in possession of State telephone calling cards, may place third party calls for business purposes as required by Unit Supervisors or Regional Administrators. A Regional

Administrator, Field Service Superintendent, or the Deputy Director of Parole and Community Services, to ensure compliance with policies and procedures, must review the third party calls. Such calls shall be billed to the APA District office in which the officer is assigned. These calls will only be made when reasonably necessary. Officers placing such calls shall complete

a monthly Toll Call Log (Form GEN 1004), identifying the officer making the call, where it is placed from, to whom the call was placed and for what purpose. This log shall be submitted monthly to the officer's Unit Supervisor or Regional Administrator for certification of the telephone bill.

D. All requests for new telephone service, modifying existing service or to cancel current telephone service (including telephone calling cards and cellular telephones) shall be submitted to the Telecommunications Coordinator, Bureau of Information and Technology Services, 970 Freeway Drive North, Columbus, Ohio 43229. All employees shall be required to sign a receipt verifying the issuance and return of all telecommunications equipment. Employees are required to return all telecommunications equipment to the Bureau of Information Technology Services upon separation from the Department. See attached forms.

E. During the first week of January each year, all Institutions, Parole/Probation offices and administrative offices shall provide an updated list of telephone numbers, cellular telephone numbers, pager numbers and calling card numbers to the Telecommunications manager, Bureau of Information Technology Services, 970 Freeway Drive North, Columbus, Ohio 43229.

F. An updated telephone directory, consisting of DRC staff telephone numbers, shall be made available either by distribution of hard copy or via email or intranet at least annually by the Bureau of Information Technology Services.

STATE OF OHIO

DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT:	PAGE <u>1</u> OF <u>3</u>
SURVEILLANCE	SECTION: 004 NUMBER: 01
RULE/CODE REFERENCE: 310.38, ORC 2933.51, 2933.71	SUPERCEDES: 004-01 dated 04/23/99
RELATED ACA STANDARDS: 3-4263	EFFECTIVE DATE: May 29, 2001
RELATED AUDIT STANDARDS: NONE	APPROVED: <i>Reginald A. Wilkinson</i>

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Ohio Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as he prescribes.

II. PURPOSE

The purpose of this policy is to establish operational guidelines for the appropriate use of surveillance within or on the grounds of a correction institution, other Ohio Department of Rehabilitation and Correction (ODRC) office or facility. These guidelines also apply to locations outside the jurisdiction of the ODRC, as appropriate, within the scope of an authorized investigation.

III. APPLICABILITY

This policy applies to all employees or contractors of the Ohio Ohio Department of Rehabilitation and Correction, and/or offenders under its jurisdiction.

IV. DEFINITIONS

Surveillance – The observing, monitoring, gathering, recording or intercepting of activities, information, conversation or evidence through the authorized and lawful use of personnel or equipment. The surveillance of individuals or areas may be conducted by overt or covert methods of operation through use of the physical human senses and/or electronic and mechanical devices. Electronic surveillance may be achieved by utilization of radios, cameras, equipment, transmitters, tape recorders, extension telephones, telephone switchboard, video or other such equipment, means or devices.

Legally Recognized Privileged Relationship – Any relationship that is considered confidential under the law, or ODRC policy, including communication: between an attorney-client; between physician-patient; or with a psychologist, psychiatrist, minister, priest, or clergy.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction to ensure surveillance within a correctional institution, other ODRC office or facility is conducted in a manner consistent with legal requirements. In cases where surveillance is used as part of an investigation involving parolees, community release or other individuals or conducted at locations other than those under the jurisdiction of the ODRC, these same legal requirements must be met.

VI. PROCEDURESA. Inmate Telephone Conversations

1. Inmate conversations conducted on telephones provided specifically for their use, are not considered private and may be electronically monitored.
2. An inmate's use of telephones to place calls to parties outside the institution is conditioned on their consent to these calls being electronically monitored. Telephones provided for inmate use are not appropriate for legally recognized privileged communication. If an inmate wishes to have a privileged communication, this can occur in person or through the mail, subject to the provisions listed in Administrative Rules 5120-9-15, 5120-9-17, 5120-9-18, 5120-9-20, and DRC Policy 312-01.
 - a. Inmates shall be informed, both during orientation and through the inmate handbook, that telephone calls may be monitored and that any privileged communication should be accomplished by mail or in person.
 - b. Signs stating that calls are subject to monitoring and recording shall be posted in the immediate vicinity of every inmate telephone.
 - c. Notice to inmates during orientation and the inmate handbook shall explicitly state that all inmate telephone calls are subject to being electronically monitored and that any inmate who uses the telephone must consent to such monitoring as a condition of being allowed to use the telephones.
 - d. Inmates shall be informed, both during orientation and through the inmate handbook, that 3-way calls and call forwarding are strictly prohibited and will be terminated if detected.

B. Employee Telephone Conversations

Employee or contractor telephone conversations, where either one or both parties are using ODRC telephone instruments, may not be electronically monitored unless there is one-party consent or a court order. It shall be the responsibility of the warden and the Ohio State Highway Patrol to obtain any such court order.

C. Notification to Central Office

Aside from routine monitoring of inmate telephones and non-covert cameras, written notification to and approval from the respective regional director and the chief inspector shall be required prior to the implementation of electronic surveillance by ODRC staff. If time is of the essence, verbal approval may be granted and documented by either the regional director or the chief inspector. Written notification and approval must be sent and received within the next twenty-four hours after verbal authorization has been granted.

The notification to utilize electronic surveillance shall include, but not be limited to:

- a. The date and estimated length of time electronic surveillance will be used.
- b. One-party consent or court order, for electronic surveillance of audio.
- c. Type of electronic surveillance being used.
- d. Location in the institution, or other area, where the electronic surveillance is being conducted.
- e. Documentation of notice and/or approval of warden or managing officer.
- f. Any other information necessary in determining the necessity and risk involved in the operation.

Approval for installation and/or use of electronic surveillance equipment during the course of an investigation conducted by the Ohio State Highway Patrol is not required. However, when practicable and prior to implementation, notification shall be provided to the respective regional director and chief inspector. Such notification shall contain, in general, the information noted in section VI (C) (1) above.

D. Warrants

If, for the safety and security of the institution, it becomes necessary to obtain a warrant allowing monitoring or interception of communications in a manner not allowed by this policy, a request for such a warrant should be directed to the chief inspector. The chief inspector will evaluate such a request, apprise the appropriate regional director and take further action as appropriate.

STATE OF OHIO



DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT:	PAGE <u>1</u> OF <u>3</u>
Inmate Access to the Telephone	SECTION: 312 NUMBER: 01
RULE/CODE REFERENCE:	SUPERCEDES: 312-01 dated 11/20/00
RELATED ACA STANDARDS:	EFFECTIVE DATE: May 21, 2002
3-4259	
RELATED AUDIT STANDARDS: 4259, 4260	APPROVED: <i>Reginald Q. Wilkinson</i>

I. AUTHORITY:

This policy is issued in compliance with Ohio Revised Code Section 5120.01 which delegates to the Director of the Ohio Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE:

The purpose of this policy is to set forth procedures governing inmate access to the use of telephones.

III. APPLICABILITY:

This policy statement applies to all inmates and to all staff members involved with inmate access to telephones.

IV. DEFINITIONS:

A. Legal Representatives: Attorneys, legal aid officers and assistants to the inmate's attorney of record, legal interns, and legal investigators.

B. Emergency Telephone Calls: Calls involving serious family illness, death, or impending circumstances which cannot be deferred until regular mail delivery or regular telephone schedules.

V. POLICY:

It is the policy of the Ohio Department of Rehabilitation and Correction to provide inmates with reasonable and equitable access to telephones.

VI. PROCEDURES:

A. Access and Use of Telephone Equipment:

1. Inmate telephone calls may be voice monitored and/or recorded to ensure that the telephone

privilege is not being abused in a manner that is a violation of law or detrimental to the security of the institution, employees, or other inmates.

2. All inmate phone calls shall be charged collect, unless charges to the institution are authorized in advance by the Warden or designee.

3. Telephone calls shall be permitted for all general population inmates subject to local policies developed by the Warden. Such policies may limit phone calls based upon the physical plant, security concerns, staffing, telephone availability, daily inmate schedules and conduct. All such policies shall be in writing and available for review by inmates and staff.

4. Inmates may be allowed emergency telephone calls subject to the limitations in Section IV, B of this policy.

5. ~~Telephone privileges may be summarily removed for cause if a rule violation is noted during~~ the call. Violations such as abusive language, excessive time on the phone, 3-way and forwarded calls shall be considered cause for summary removal of privileges. All violations shall be documented in a conduct report and the hearing officer or rules infraction board may suspend telephone privileges for rule violations.

6. The awarding of additional telephone privileges for demonstrated positive behavior may be utilized by unit staff where facilities, space and staffing permit. Any such privilege program shall be in writing, and posted for inmate review.

7. Generally, inmates in security control, disciplinary control, local control, protective control, and in special management status may place emergency or legal calls only when approved by the Warden or designee. All inmate calls made from segregation units shall be documented on the attached segregation telephone call record (DRC 2640).

8. Inmates may not receive incoming telephone calls unless arrangements for such are made in advance and approved by the Warden or designee.

B. Monitoring Inmate Phone Calls:

1. Telephone calls may be voice monitored and/or recorded by staff designated by the Warden on a random or regular basis or for cause. Any violations shall subject the inmate to disciplinary action. All emergency telephone calls may be voice monitored.

2. A sign clearly stating that telephone calls may be monitored shall be posted in clear view of all inmate telephones.

C. Legal Calls

1. On occasion, courts will schedule pre-trial hearings via conference calls between the plaintiff, plaintiff's attorney, defendant, defendant's attorney and the courts. In such cases, it is imperative that all factors are properly coordinated to ensure availability of the inmate, private telephone access and visual monitoring. Upon receipt of such hearing notice, the Warden will assign a specific staff member to coordinate the telephone pre-trial hearing. All such calls shall be visually monitored, but not voice monitored.

2. Inmates' use of telephones to place calls to parties outside of the institution is conditioned on their consent to these calls being monitored. As such, these telephone calls are not appropriate for legally recognized privileged communication. If an inmate wishes to have a privileged communication, this generally should occur in person or through the mail, subject to the provisions made in regulations governing legal services, mail, printed materials and visitation. In the event of an urgent legal matter, an inmate may contact unit personnel to request arrangement of an unmonitored telephone call. Telephone calls with an attorney, that have been cleared and approved by the Warden or designee, shall not be voice monitored, but shall be visually monitored.

ATTACHED FORMS:**DRC2640**